

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 14369 of 2023

Petitioner :- Sourabh Jain

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Ram Milan Mishra

Counsel for Respondent :- G.A., Dharmendra Singh Chauhan

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Sri Ram Milan Mishra, learned counsel for the petitioner and Sri Ratan Singh, learned A.G.A for the State respondents and Sri D.S. Chauhan, learned counsel for the Moradabad Development Authority (hereinafter referred to as the 'MDA').

2. The relief sought in this petition is for quashing of the F.I.R. dated 7.5.2023, registered as Case Crime No. 0399 of 2023, under Sections 420, 467, 468, 471, 447, 511 IPC, Police Station Civil Lines, District Moradabad. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Counsel for the petitioner submits that MDA has lodged a malicious prosecution against the petitioner and no offence as alleged in the FIR has been made out on plain reading of the FIR. Counsel for the petitioner relied upon the judgement passed by Hon'ble Apex Court in *Archana Rana vs. State of Uttar Pradesh and another*, (2021) 3 SCC 751.

4. Learned counsel for the MDA states that the petitioner has fraudulently created documents of the land in question. He next submit that he is a habitual offender involved in various litigations and he is bhumafia.

4. Learned AGA opposed the prayer for quashing of the FIR, which discloses cognizable offence. He next submits that the petitioner is involved in four cases i.e. (1) Case Crime No. 399 of 2023, under Sections 420, 447, 467, 468, 471, 511 IPC, P.S. Civil Lines, Moradabad; (2) Case Crime No. 619 of 2018, under Sections 147, 332, 342, 353, P.S. Civil Lines, Moradabad; (3) Case Crime No. 614 of 2018, under Sections 13(1)(c), 13 (1)(d), 13 (2), 120B, 409 IPC, P.S. Mudhapande, Mordabad; and (4) Case Crime No. 995 of 2020, under Sections 186, 188, 268, 288, 405, 406, 418 IPC, P.S. Civil Lines, Moradabad.

5. On plain reading of the FIR, prima facie, a cognizable offence is made out and ingredients of Sections 420, 467, 468, 471, 447, 511 IPC are satisfied.

6. Therefore, in view of the law laid down by Hon'ble Supreme Court in the case of *State of Haryana and others vs. Bhajan Lal and others*, 1992 Supp. (1) SCC 335 and *M/s Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra*, AIR 2021 SC 1918 and in *Special Leave to Appeal (Crl.) No.3262/2021 (Leelavati Devi @ Leelawati & another vs. the State of Uttar Pradesh)* decided on 07.10.2021, no case has been made out for interference with the

impugned first information report.

7. Therefore, the writ petition is dismissed leaving it open for the petitioner to apply before the competent court for anticipatory bail/bail as permissible under law and in accordance with law.

Order Date :- 18.10.2023

Abhishek